

Passed by the House on April 5, 2007: Yeas 135, Nays 2, 1 present, not voting; passed by the Senate on May 15, 2007: Yeas 31, Nays 0.

Approved June 15, 2007.

Effective June 15, 2007.

CHAPTER 320

H.B. No. 2391

AN ACT

relating to the appearance of certain misdemeanor offenders before a magistrate.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 14.06, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Except as *otherwise* provided by *this article* [~~Subsection (b)~~], in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article 15.17 of this Code, before a magistrate in any other county of this state. The magistrate shall immediately perform the duties described in Article 15.17 of this Code.

(c) *If the person resides in the county where the offense occurred, a peace officer who is charging a person with committing an offense that is a Class A or B misdemeanor may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate of this state as described by Subsection (a), the name and address of the person charged, and the offense charged.*

(d) *Subsection (c) applies only to a person charged with committing an offense under:*

(1) *Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;*

(2) *Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;*

(3) *Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(1) of that section;*

(4) *Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;*

(5) *Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;*

(6) *Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor, or*

(7) *Section 521.457, Transportation Code.*

SECTION 2. Article 15.17, Code of Criminal Procedure, is amended by adding Subsection (g) to read as follows:

(g) *If a person charged with an offense punishable as a misdemeanor appears before a magistrate in compliance with a citation issued under Article 14.06(b) or (c), the magistrate shall perform the duties imposed by this article in the same manner as if the person had been arrested and brought before the magistrate by a peace officer. After the magistrate performs the duties imposed by this article, the magistrate except for good cause shown may release the person on personal bond. If a person who was issued a citation under Article 14.06(c) fails to appear as required by that citation, the magistrate before which the person is required to appear shall issue a warrant for the arrest of the accused.*

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 4. This Act takes effect September 1, 2007.

Passed by the House on April 27, 2007: Yeas 132, Nays 0, 2 present, not voting; passed by the Senate on May 18, 2007: Yeas 29, Nays 1.

Approved June 15, 2007.

Effective September 1, 2007.

CHAPTER 321

H.B. No. 2400

AN ACT

relating to membership in, contributions to, benefits from, and administration of the Texas Emergency Services Retirement System

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 861, Government Code, is amended by adding Sections 861.008 and 861.009 to read as follows:

Sec. 861.008. IMMUNITY FROM LIABILITY. The state board, commissioner, and employees of the pension system are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty or prerogative in connection with the administration of the pension system.

Sec. 861.009. VENUE. An action in state court by or against the pension system shall be brought in Travis County.

SECTION 2. Section 862.002(a), Government Code, is amended to read as follows:

(a) Except as otherwise provided by this section *and Section 862.0021*, each person who performs service as a volunteer or auxiliary employee of a participating department is a member of the pension system.

SECTION 3. Chapter 862, Government Code, is amended by adding Section 862.0021 to read as follows:

Sec. 862.0021. PROBATIONARY PERIOD BEFORE MEMBERSHIP. (a) A participating department may impose a probationary period for a volunteer or auxiliary employee.

(b) A probationary period imposed under this section must end not later than six months after the date the person begins service with the participating department.

(c) The participating department is not required to pay contributions for the person during the probationary period.

(d) A person's membership in the pension system begins on the date that the department begins payment of contributions for that person, without regard to whether the person's service is subject to a probationary period for other purposes.

SECTION 4. Sections 864.004 and 864.005, Government Code, are amended to read as follows:

Sec. 864.004. DISABILITY RETIREMENT BENEFITS [ANNUITY]. (a) A member is entitled to disability retirement benefits from the pension system only if a local board determines that the member became disabled during the performance of emergency service duties and is unable to return to work at the member's regular occupation or, if the member is a student, is unable to return to the member's scholastic studies. A disabled member must, at the time of disability, elect between a service [or disability] retirement annuity or disability retirement benefits, if eligible for both.